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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/750,948	12/28/2000	Perry G. Vincent	23689-210	7545

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EXAMINER
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MEINECKE DIAZ, SUSANNA M

ART UNIT	PAPER NUMBER
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3623

DATE MAILED: 01/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/750,948

**Applicant(s)**

VINCENT, PERRY G.

**Examiner**

Susanna M. Diaz

**Art Unit**

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 4-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 4-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This final Office action is responsive to Applicant's response filed November 14, 2005.

No claims have been amended.

Claims 1 and 4-20 remain pending.

### ***Response to Arguments***

2. Applicant's arguments filed November 14, 2005 have been fully considered but they are not persuasive.

Applicant argues, "It is not seen, however, that the Net Perceptions Publication teaches 'one or more data analysis tools comprising executable instructions to analyze said customer data to determine one or more patterns and generate a set of rules based upon said patterns' as part of the Net Perceptions call center solution." (Page 7 of Applicant's response) The Examiner respectfully disagrees. "Net Perceptions Alters Dynamics of Marketing Industry with Introduction of Net Perceptions for Call Centers" specifically states that Net Perceptions "continuously builds customer profiles as each call progresses and uses the information to prompt agents with purchase recommendations that are unique to each customer" (¶ 2). This means that the Net Perceptions software evaluates, or analyzes, each customer profile in order to generate customized recommendations. The Net Perceptions software must somehow be programmed to correlate specific customer profile data with a particular set of recommendations if the recommendations are to be customized for each customer. As

Art Unit: 3623

a matter of fact, Net Perceptions' "recommendation engine zeroes in on individual preferences by pooling information from current and previous calls, and by drawing upon a database of information on other customers with similar buying patterns" (§ 4), thereby indicating that patterns of successful sales are gleaned from the patterns of "other customers with similar buying patterns." Clearly, Net Perceptions analyzes customer data to determine one or more patterns. Then, the sales agent may be prompted to enter additional customer information and/or provided with personalized recommendations for each customer. These instructions and/or output generated by Net Perceptions are not only based on rules, but may also be interpreted as rules generated by Net Perceptions and presented to the sales agent. Therefore, the Examiner submits that Net Perceptions indeed teaches "one or more data analysis tools comprising executable instructions to analyze said customer data to determine one or more patterns and generate a set of rules based upon said patterns."

Applicant also argues that "a prior sale or public use of one or more individual elements of a claim cannot be an anticipation of a combination of elements -- the combination itself must be shown to be in public use, on sale, or publicly disclosed more than one year prior to the effective filing date of the present application." (Page 8 of Applicant's response) It is not clear which rejection Applicant is addressing since there is no currently pending rejection based on prior sale or public use.

In summary, Applicant's arguments are deemed to be non-persuasive and the art rejection is maintained.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 4-6, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Net Perceptions for Call Centers, as disclosed in "Net Perceptions Alters Dynamics of Marketing Industry with Introduction of Net Perceptions for Call Centers."

Net Perceptions discloses a method of suggesting an interaction strategy to a customer service representative in a customer relationship management environment, said method comprising the steps of:

[Claim 1] maintaining an interaction repository containing customer data (¶¶ 2-4);

utilizing one or more data analysis tools comprising executable instructions to analyze said customer data to determine one or more patterns and generate a set of rules based upon said patterns (¶¶ 2-4); and

using a recommendation engine to apply said rules to a current customer interaction to recognize one or more of said patterns in said interaction and suggest an interaction strategy corresponding to said recognized patterns (¶¶ 2-4);

[Claim 4] wherein said recommendation engine recognizes said patterns from said current customer interaction in real-time (¶¶ 2-4);

[Claim 5] wherein said customer data includes a customer interaction history with said business (¶¶ 2-4);

[Claim 6] wherein said patterns are individually determined for customers of said business (¶¶ 2-4);

[Claim 9] wherein said current customer interaction is a telephone contact with a call center representative (¶¶ 2-4).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 7, 8, and 10-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Net Perceptions for Call Centers, as disclosed in "Net Perceptions Alters Dynamics of Marketing Industry with Introduction of Net Perceptions for Call Centers," as applied to claim 1 above, *in view of* Andrews ("A Hidden Agenda").

[Claims 7, 8, 10] While "Net Perceptions Alters Dynamics of Marketing Industry with Introduction of Net Perceptions for Call Centers" does not expressly disclose that the Net Perception for Call Centers recommendation engine captures data from a plurality of different interaction data sources, Andrews teaches that Net Perceptions does offer a recommendation engine that collects and analyzes data regarding customer interactions among various channels, including telephonic (i.e., physical) and online/Web (i.e., a virtual and self-service application) interactions (¶¶ 1, 4). This capability allows merchants to more comprehensively and successfully personalize product offerings

Art Unit: 3623

made to customers, especially those that interact with the merchants through various channels (¶¶ 1, 4). As a matter of fact, the SkyMall implementation of Net Perceptions' recommendation engine, as disclosed by Andrews, is embodied in a call center environment (similar to Net Perceptions' packaged product, Net Perceptions for Call Centers); therefore, the Examiner submits that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to adapt the product Net Perceptions for Call Centers to capture customer data from a plurality of different interaction data sources, including both physical and virtual channels (such as a self-service application), in order to reap the full capabilities of Net Perceptions' recommendation engine in the call center environment, thereby allowing merchants to more comprehensively and successfully personalize product offerings made to customers, especially those that interact with the merchants through various channels (as suggested in ¶¶ 1, 4 of Andrews).

[Claims 11-15] Claims 11-15 recite limitations already addressed by the rejection of claims 1 and 4-10 above; therefore, the same rejection applies.

Furthermore, while Net Perceptions for Call Centers displays a prompt to agents with "pertinent customer information and specific purchase recommendations for whoever is on the line" (¶ 4 of "Net Perceptions Alters Dynamics of Marketing Industry with Introduction of Net Perceptions for Call Centers"), "Net Perceptions Alters Dynamics of Marketing Industry with Introduction of Net Perceptions for Call Centers" does not expressly teach all of the details of Net Perceptions for Call Centers' user

Art Unit: 3623

interface. For example, there is no express teaching that the user interface allows for inputting of data regarding said current interaction (claim 12) or a separate display panel for inputting notes that are used to determine recommendation strategies (claims 13 and 14); however, "Net Perceptions Alters Dynamics of Marketing Industry with Introduction of Net Perceptions for Call Centers" states that Net Perceptions for Call Centers pools "information from current and previous calls...As each inbound or outbound customer call proceeds, Net Perceptions for Call Centers prompts agents with pertinent customer information and specific purchase recommendations for whoever is on the line." (§ 4) The fact that prompts are displayed to agents throughout the progression of the call (i.e., "Net Perceptions for Call Centers continuously builds customer profiles as each call progresses and uses the information to prompt agents with purchase recommendations that are unique to each customer," § 2) implies that some interaction between the agent and the system occurs. In order to continuously build customer profiles during the call progression, input regarding the call interactions must somehow be documented. The Examiner submits that it is old and well-known in the art of call centers to provide call center agents with a display window at which he/she may enter specific details in reference to each call. For example, if a customer calls requesting information on a particular book, the agent may enter this information into the system. Net Perceptions for Call Centers needs some basic background information on each call in order to more effectively generate purchase recommendations. Since the call center agent directly deals with the customer, the Examiner submits that it would have been obvious to one of ordinary skill in the art at



Art Unit: 3623

the time of Applicant's invention to adapt Net Perceptions for Call Centers to provide the agent with a user interface for inputting of data regarding said current interaction (claim 12), including a separate display panel for inputting notes that are used to determine recommendation strategies (claims 13 and 14) in order to more effectively generate purchase recommendations based on the real-time progression of each call (as suggested by the fact that "Net Perceptions for Call Centers continuously builds customer profiles as each call progresses and uses the information to prompt agents with purchase recommendations that are unique to each customer," ¶ 2). Since the agent has the most direct contact with the customer during his/her communications with the call center, the Examiner submits that the agent has insight into some of the most valuable information regarding the customer's current needs, thereby making such perceptions entered by the agent crucial for a more efficient and successful marketing strategy.

[Claims 16-20]        Claims 16-20 recite limitations already addressed by the rejection of claims 1 and 4-10 above; therefore, the same rejection applies. It should be noted that, by comparing a current customer to "other customers with similar buying patterns" (¶ 4 of "Net Perceptions Alters Dynamics of Marketing Industry with Introduction of Net Perceptions for Call Centers"), one is detecting affinities to patterns. Since customer purchase histories, data from both current and previous calls, and data related to other customers with similar buying patterns are used to make a recommendation to a current customer (¶¶ 3-4 of "Net Perceptions Alters Dynamics of Marketing Industry with

Introduction of Net Perceptions for Call Centers”), it is understood that the patterns may include customer product ownership, customer interaction history, customer interaction behavior, and product affinities.

### ***Conclusion***


7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susanna M. Diaz whose telephone number is (571) 272-6733. The examiner can normally be reached on Monday-Friday, 10 am - 6 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Susanna M. Diaz  
Primary Examiner  
Art Unit 3623

December 28, 2005